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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/658,658	09/08/2000	Michael James McLaughlin JR.	50277-0357	3337

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EXAMINER

DINH, DUNG C

ART UNIT PAPER NUMBER

2152

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/658,658

Applicant(s)

MCLAUGHLIN, MICHAEL JAMES

Examiner

Dung Dinh

Art Unit

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --.

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Response to Arguments***

Applicant's arguments filed 7/11/05 have been fully considered but they are not persuasive. Applicant argued that Bowen does not teach determining to terminate the transaction based on the time period value after determining to undertake commitment of the transaction. The argument is not persuasive because Bowen's step of determining to undertake commitment of the transaction occurs while the timer is still active. See col.5 line 24. The transmission of a web page with the COMMIT button represents the server determination to undertake commitment of the transaction as claimed. It is apparent from col.5 lines 50-58, that the transaction would be aborted if the COMMIT command is not transmit to the server within timed out period.

Regarding Bowen disclosure on col.5 lines 64+ that the timer is "only needed when the transaction is active, i.e., the time prior to transaction commit processing", on col.6 line 1, Bowen discloses that this is "local commit processing". As pointed out above, the step of "determining to undertake commitment" of the transaction occurs at the time the option to commit is presented to the client. The "local commit processing" occurs after determining that the commit is valid

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(e.g. receiving a valid transaction identifier within the time out period). See col.5 lines 50-54.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bowen US patent 6,209,038 and further in view of Sharma et al. "Scalable Timers for Soft State Protocols" and Xia US patent 6,154,849.

As per claims 1-5, Bowen teaches a system for distributed transaction over the Internet using stateless protocol (HTTP) [see col.1 lines 40-60, col.4 lines 47-60], terminating based on value from one or more fixed time periods (timeout) [col.5 lines 49-55], and having a coordinator cooperates with the participant to execute the transaction by communicating messages with the participant over the network [col.4 lines 60-65].

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Bowen teaches determining to undertake commitment of the distributed transaction [col.5 line 24 - the sending of a web page with COMMIT button to the client]. And afterward, determining whether to terminate the transaction based on the time period values [apparent from col.5 lines 50-57].

Bowen does not teach adjusting the timeout period values based on gathered network latency information.

In similar art, Xia teaches that timeout values for transaction server can be adjusted to take into account of the server load condition when it satisfies an adjustment criteria (median load) [see col.8 lines 1-15]. Xia does not specifically disclose taking into account the network latency.

Sharma teaches an improved method over fixed timeout periods for communication sessions over the Internet by adjusting timeout value based on gathered information about network latency comprising:

gathering latency information to generate one or more time period values [p.222 top of col.2 "Scalable timers replace the fixed time settings ... with timers that adapt to the volume ... and available bandwidth"];

determining whether to terminate a session based on one or more of the time period values [see p.222 col.1 and p.223 col.1 2nd paragraph, p.224 col.2 "Timing out network state"].

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Hence, given the teaching of Xia and Sharma, it would have been obvious for one of ordinary skill in the art to modified the fixed timeout values in Bowen with dynamically adjusted timeout values based on various conditions including network latency, server load, etc. because it would have improved the performance of the system and prevent premature transaction failures.

As per claims 6 and 7, Sharma does not disclose setting the time period value based on time period when a message is transmitted and an acknowledgement for the message is received. However, it would have been obvious for one of ordinary skill in the art in to set the time values based at least on the round trip time so as to ensure an adequate minimum timeout value.

As per claim 8, it would have been obvious for one of ordinary skill in the art to generate at least two transmit times because it would have enable redundancy and statistically valid measurement of the transit time.

As per claim 9, Sharma does not disclose pinging a server. It is well known in the network communication art to measure transmit time by pinging the other node. Hence, it would have been obvious for one of ordinary skill in the art to measure transit time to a server by pinging that server.

As per claim 10, Xia teaches determining a transaction execution threshold (server load). It would have been obvious for

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one of ordinary skill in the art to take into account the time needed for a participant to execute operations for a transaction in computing the timeout values so to set adequate minimum response time values.

As per claim 11, the recited limitation is inherent in the operation of the system as modified. It would have been obvious for one of ordinary skill in the art to check for termination criteria of a preceding transaction prior to permitting modification by a second transaction so as to reduce data corruption.

As per claims 12-14 and 19+29-30, they are rejected under similar rationale as for claims 1-5 above. Xia and Sharma do not specifically teach adjusting the time period based on the transaction execution period. However, given the teaching of Xia and Sharma as a whole, one of ordinary skill in the art would have been motivated to take into account the execution time of transaction operation in calculating the time period values in order to assure a minimum time adequate for a participant to receive, to execute, and to return the result/acknowledgement.

As per claims 15 and 20, they are rejected under similar rationale as for claims 1-5 above. It is apparent from Sharma teaching that that changes in latency (changes traffic or bandwidth) would cause adjustment to the timeout values.

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As per claims 16-18, 21-22, they are rejected under similar rationale as for claims 1-5 above.

As per claims 23 and 24, they are rejected under similar rationale as for claims 6 and 7 above.

As per claims 25-26, they are rejected under similar rationale as for claims 8-9 above.

As per claims 27-28, they are rejected under similar rationale as for claims 10-11 above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung Dinh whose telephone number is (571) 272-3943. The examiner can normally be reached on Monday-Friday from 7:00 AM - 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached at (571) 272-3949.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Dung Dinh', with a stylized flourish at the end.

Dung Dinh
Primary Examiner
September 19, 2005